

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

STATE OF MISSOURI,)	
)	
vs.)	
)	
JAVIER A. ALATORRE)	CASE NO. 1816-CR06452-01
)	DIVISION 18
)	
DEFENDANT.)	

**STATE'S OPPOSITION TO DEFENDANT'S REQUEST FOR BOND
REDUCTION**

COMES NOW, the State of Missouri, by and through Assistant Prosecuting Attorney Stephanie R. Sang, who hereby requests that the Court *deny* the defendant's motion for bond reduction. In support of this motion, the State asserts the following:

1. On November 28, 2017, Defendant was charged in case 1716-CR05067 with the class C felony of Possession of Controlled Substance. Specifically, Defendant possessed 96 pills of Xanax, a controlled substance. As a result of being charged, a warrant was issued for the defendant with a bond amount of \$2500 with a Release on his own Recognizance bond.
2. On March 15, 2018, Defendant was charged in case 1816-CR01168 with the class E felony of Resisting Arrest. Specifically, Defendant failed to stop for law enforcement officers, drove at speeds exceeding 100 mph, and failed to obey traffic control devices.
3. Subsequently, a warrant was issued on March 15, 2018 and the warrant was served on March 16, 2018.

4. The defendant failed to appear on March 27, 2018, for the initial appearance on 1816-CR01168. As a result, a warrant was issued and the defendant's bond was revoked.
5. On June 8, 2018, the warrant was finally served on the defendant. On that same day, the Court modified the defendant's bond conditions in case 1816-CR01168 to a \$5,000 with a Release on Recognizance bond. Additionally, the Court modified the defendant's bond in case 1716-CR05067 to \$2,500 with a Release on his own Recognizance bond.
6. On October 26, 2018, the State filed a Motion to Revoke the Defendant's bond based on information received from Kansas City Police Department. According to KCPD reports, on October 24, 2018, Defendant was driving in a green Honda Civic on Lister Avenue. A computer check revealed the car to be stolen. After attempting to initiate a traffic stop, Defendant fled from police, drove the vehicle at a high rates of speed, and ran through multiple stoplights and stop signs. Defendant eventually abandoned the vehicle in an alleyway between Lister and Chelsea Avenue and fled on foot. While running, officers observed Defendant throw a pill bottle away from him. It was later determined that the pill bottle contained seven pills of alprazolam, a controlled substance. Defendant was apprehended and placed into custody. Upon investigation, officers observed a nearby abandoned tan Honda Accord, which was also discovered to be stolen. The stolen Honda Accord—near the stolen vehicle Defendant abandoned—contained a loaded sawed-off shotgun, a key ring containing 12 miscellaneous car keys, and a digital scale containing white residue.

State vs. Javier A. Alatorre , Case No. 1816-CR06452-01

7. Based upon the above information, the State filed a three count complaint on December 19, 2018, charging the defendant with Tampering in the First Degree, Possession of a Controlled Substance, and Resisting/Interfering with Arrest, Detention, or Stop (Misdemeanor).
8. Subsequently, a warrant was issued for the defendant for \$10,000 10% and was served on the defendant on December 26, 2018.
9. On January 3, 2019, the Court modified the defendant's bond to \$10,000 Release on his own Recognizance.
10. On January 18, 2019, the defendant was indicted in 1816-CR06452-01.
11. On March 26, 2019, the defendant failed to appear for a scheduled hearing, as a result, a warrant was issued and the defendant's bond was revoked.
12. On May 24, 2019, the defendant appeared before Judge Weir and agreed to be extradited to Wyandotte County, Kansas for probation violations relating to traffic offenses.
13. On August 2, 2019, the warrant was served on the defendant.
14. On August 13, 2019, Judge Burnett made no changes to the defendant's bond conditions.

ARGUMENT

When considering modification of defendant's bond condition, the Court may modify conditions if the Court finds: new, different or additional requirements necessary, that conditions set are excessive, and/or that the defendant failed to comply or has violated conditions or release. Mo. Sup. Ct. R. 33.06 (2019)

Pursuant to Missouri Supreme Court Rule 33.01(e), the Court shall base its determination on the individual circumstances of the defendant and the case. Based on available information, the court shall take into account:

- 1) Nature and circumstances of the offense charged;
 - 2) Weight of the evidence against the defendant
 - 3) Defendant's family ties
 - 4) Defendant's employment
 - 5) Defendant's financial resources
 - 6) Defendant's character
 - 7) Defendant's mental condition
 - 8) Length of the defendant's residence in the community
 - 9) Defendant's record of convictions
 - 10) Defendant's record of appearance at court or flight to avoid prosecution or failure to appear at court
 - 11) Whether defendant was on probation or parole or release pending trial or appeal.
- (2019).

A. Defendant is a Flight Risk

Generally, any person charged with a bailable offense may be ordered released pending trial on his personal recognizance, unless it is determined, "that such a release will not reasonably assure the appearance of the person as required." Mo. Rev. Stat. § 544.455 (2013). In determining whether a Defendant is a flight risk, the Court may consider the weight of the evidence against the accused, and the Defendant's employment, family ties to the community, and the defendant's record of appearance at court or flight to avoid

State vs. Javier A. Alatorre , Case No. 1816-CR06452-01

prosecution. *Id.* The defendant has repeatedly shown this Court that if released there is no guarantee that he will appear for his next scheduled hearing. Specifically, the defendant's bond has been revoked on two separate occasions for failing to appear at scheduled Court hearings.

B . Defendant is a Danger to the Community

“Upon a showing that the defendant poses a danger to a crime victim, the community, or another person, the court may use such information in determining the appropriate amount of bail...” Mo. Rev. Stat. § 544.457 (1993). See also: *State v. Dodson*, 556 S.W.2d 938 (Mo. Ct. App 1977) (“courts have an inherent power to deny or revoke bail to protect its processes and the community.” In determining whether a defendant poses a danger to a victim, witnesses, or the community, a court may consider all relevant evidence, including the nature and circumstances of the crime alleged. Mo. Rev. Stat. § 544.676 (2) (1994).

The defendant is charged in two out of the three cases with Resisting Arrest by Fleeing. The probable cause statement in 1816-CR01168 states that the defendant failed to stop for law enforcement officers and drove at speeds in excess of 100MPH while refusing to adhere to traffic signals. Additionally, in 1816-CR06452-01, the probable cause statement states that the defendant again drove at high rates of speed and ran through stoplights and stop signs. The defendant has shown by his actions that he poses a significant risk to the community. During either of the car chases, innocent bystanders could have

State vs. Javier A. Alatorre , Case No. 1816-CR06452-01

been hurt and/or killed due to the defendant's reckless behavior. Additionally, the defendant has continued this type of behavior even with cases pending.

The Court can also consider, "whether the defendant was on probation or released on bail at the time the crime for which the court is considering bail was committed." *Id.* Besides the initial offense the defendant has committed new crimes while on bond. Pending cases and bond conditions have had no effect on the defendant's actions.

C. Bond is Not Excessive

Finally, while the Defendant claims he does not have the financial ability to satisfy the current bonds, it is not excessive simply because he is unable to secure it. *State v. Dabbs*, 489 S.W.2d 745, 747 (Mo. Ct. App. 1972) (citing: *Koen v. Long*, 302 F.Supp. 1383, 1391 (E.D. Mo. 1969)); *White v. United States*, 330 F.2d 811 (8th Cir. 1964).

CONCLUSION

The defendant has moved for this Honorable Court to reduce Defendant's bond citing. The State of Missouri respectfully requests that this honorable Court considers the defendant's flight risk and risk to the community and find that Defendant's bond is appropriately set.

WHEREFORE, for the above stated reasons the State respectfully requests this Honorable Court to deny the Defendant's request for a bond reduction.

Respectfully Submitted,

JEAN PETERS BAKER

Prosecuting Attorney
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by,

/s/ Stephanie R. Sang

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was transmitted electronically through the Missouri e-Filing System on 9/4/2019 to all attorneys of record.

/s/ Stephanie R. Sang

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Assistant Prosecuting Attorney